

§ 1.482-0T

(2) Appropriate method of allocation and apportionment.

- (i) Reasonable method standard.
- (ii) Use of general practices.
- (3) Examples.
- (1) Controlled services transaction.
- (1) In general.
- (2) Activity.
- (3) Benefit.
- (i) In general.
- (ii) Indirect or remote benefit.
- (iii) Duplicative activities.
- (iv) Shareholder activities.
- (v) Passive association.
- (4) Disaggregation of transactions.
- (5) Examples.
- (m) Coordination with transfer pricing rules for other transactions.

(1) Services transactions that include other types of transactions.

(2) Services transactions that effect a transfer of intangible property.

(3) [Reserved] For further guidance, see § 1.482-0T, the entry for § 1.482-9T(m)(3).

(4) Other types of transactions that include controlled services transactions.

(5) Examples.

(n) Effective/applicability date.

(1) In general.

(2) Election to apply regulations to earlier taxable years.

[T.D. 8552, 59 FR 34988, July 8, 1994, as amended by T.D. 8632, 60 FR 65557, Dec. 20, 1995; 61 FR 7157, Feb. 26, 1996; T.D. 8670, 61 FR 21956, May 13, 1996; T.D. 9088, 68 FR 51177, Aug. 26, 2003; T.D. 9278, 71 FR 44479, Aug. 4, 2006; T.D. 9441, 74 FR 348, Jan. 5, 2009, 74 FR 9571, Mar. 5, 2009; T.D. 9456, 74 FR 38837, Aug. 4, 2009]

EDITORIAL NOTE: At 71 FR 44479, Aug. 8, 2006, section 1.482-0 was amended by revising the entry for (f)(2)(ii)(B). However, because of inaccurate amendatory language, this amendment could not be incorporated. For the convenience of the user, the language at 71 FR 44479 is set forth as follows:

§ 1.482-0 Outline of regulations under section 482.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(A) [Reserved]. For further guidance, see § 1.482-0T, the entry for § 1.482-1T(f)(2)(ii)(A).

(iii) * * *

(B) [Reserved]. For further guidance, see § 1.482-0T, the entry for § 1.482-1T(f)(2)(iii)(B).

§ 1.482-0T Outline of regulations under section 482 (temporary).

This section contains major captions for §§ 1.482-1T, 1.482-2T, 1.482-4T, 1.482-7T, 1.482-8T, and 1.482-9T.

26 CFR Ch. I (4-1-10 Edition)

§ 1.482-1T Allocation of income and deductions among taxpayers (temporary).

(a) through (b)(2) [Reserved] For further guidance, see § 1.482-0, the entries for § 1.482-1(a) through (b)(2).

(i) Methods.

(ii) [Reserved] For further guidance, see § 1.482-0, the entry for § 1.482-1(b)(2)(ii).

(iii) Coordination of methods applicable to certain intangible development arrangements.

(c) through (i) [Reserved] For further guidance, see § 1.482-0, the entries for § 1.482-1(c) through (i).

(j) Effective/applicability date.

(k) Expiration date.

§ 1.482-2T Determination of taxable income in specific situations (temporary).

(a) through (d) [Reserved] For further guidance, see § 1.482-0, the entries for § 1.482-2(a) through (d).

(e) Cost sharing arrangement.

(f) Effective/applicability date.

(1) In general.

(2) Election to apply regulation to earlier taxable years.

(3) Expiration date.

§ 1.482-4T Methods to determine taxable income in connection with a transfer of intangible property (temporary).

(a) through (f)(3)(i)(A) [Reserved] For further guidance, see § 1.482-0, the entries for § 1.482-4(a) through (f)(3)(i)(A).

(B) Cost sharing arrangements.

(f)(3)(ii) through (f)(6) [Reserved] For further guidance, see § 1.482-0, the entries for § 1.482-4(f)(3)(ii) through (f)(6).

(g) Coordination with rules governing cost sharing arrangements.

(h) Effective/applicability date.

(i) Expiration date.

§ 1.482-7T Methods to determine taxable income in connection with a cost sharing arrangement (temporary).

(a) In general.

(1) RAB share method for cost sharing transactions (CSTs).

(2) Methods for platform contribution transactions (PCTs).

(3) Methods for other controlled transactions.

(i) Contribution to a CSA by a controlled taxpayer that is not a controlled participant.

(ii) Transfer of interest in a cost shared intangible.

(iii) Other controlled transactions in connection with a CSA.

(iv) Controlled transactions in the absence of a CSA.

(4) Coordination with the arm's length standard.

(b) Cost sharing arrangement.

(1) Substantive requirements.

- (i) CSTs.
- (ii) PCTs.
- (iii) Divisional interests.
- (iv) Examples.
- (2) Administrative requirements.
- (3) Date of a PCT.
- (4) Divisional interests.
 - (i) In general.
 - (ii) Territorial based divisional interests.
 - (iii) Field of use based divisional interests.
 - (iv) Other divisional bases.
 - (v) Examples.
- (5) Treatment of certain arrangements as CSAs.
 - (i) Situation in which Commissioner must treat arrangement as a CSA.
 - (ii) Situation in which Commissioner may treat arrangement as a CSA.
 - (iii) Examples.
- (6) Entity classification of CSAs.
 - (c) Platform contributions.
 - (1) In general.
 - (2) Terms of platform contributions.
 - (i) Presumed to be exclusive.
 - (ii) Rebuttal of Exclusivity.
 - (iii) Proration of PCT Payments to the extent allocable to other business activities.
 - (A) In general.
 - (B) Determining the proration of PCT Payments.
 - (3) Categorization of the PCT.
 - (4) Certain make-or-sell rights excluded.
 - (i) In general.
 - (ii) Examples.
 - (5) Examples.
 - (d) Intangible development costs.
 - (1) Determining whether costs are IDCs.
 - (i) Definition and scope of the IDA.
 - (ii) Reasonably anticipated cost shared intangible.
 - (iii) Costs included in IDCs.
 - (iv) Examples.
 - (2) Allocation of costs.
 - (3) Stock-based compensation.
 - (i) In general.
 - (ii) Identification of stock-based compensation with the IDA.
 - (iii) Measurement and timing of stock-based compensation IDC.
 - (A) In general.
 - (1) Transfers to which section 421 applies.
 - (2) Deductions of foreign controlled participants.
 - (3) Modification of stock option.
 - (4) Expiration or termination of CSA.
 - (B) Election with respect to options on publicly traded stock.
 - (1) In general.
 - (2) Publicly traded stock.
 - (3) Generally accepted accounting principles.
 - (4) Time and manner of making the election.
 - (C) Consistency.
 - (4) IDC share.
 - (5) Examples.
 - (e) Reasonably anticipated benefits share.
- (1) Definition.
 - (i) In general.
 - (ii) Examples.
- (2) Measure of benefits.
 - (i) In general.
 - (ii) Indirect bases for measuring anticipated benefits.
 - (A) Units used, produced, or sold.
 - (B) Sales.
 - (C) Operating profit.
 - (D) Other bases for measuring anticipated benefits.
 - (E) Examples.
 - (iii) Projections used to estimate benefits.
 - (A) In general.
 - (B) Examples.
 - (f) Changes in participation under a CSA.
 - (1) In general.
 - (2) Controlled transfer of interests.
 - (3) Capability variation.
 - (4) Arm's length consideration for a change in participation.
 - (5) Examples.
 - (g) Supplemental guidance on methods applicable to PCTs.
 - (1) In general.
 - (2) Best method analysis applicable for evaluation of a PCT pursuant to a CSA.
 - (i) In general.
 - (ii) Consistency with upfront contractual terms and risk allocations—the investor model.
 - (A) In general.
 - (B) Examples.
 - (iii) Consistency of evaluation with realistic alternatives.
 - (A) In general.
 - (B) Examples.
 - (iv) Aggregation of transactions.
 - (v) Discount rate.
 - (A) In general.
 - (B) Considerations in best method analysis of discount rates.
 - (1) Discount rate variation between realistic alternatives.
 - (2) Discount rate variation between forms of payment.
 - (3) Post-tax rate.
 - (C) Example.
 - (vi) Financial projections.
 - (vii) Accounting principles.
 - (A) In general.
 - (B) Examples.
 - (viii) Valuations of subsequent PCTs.
 - (A) Date of subsequent PCT.
 - (B) Best method analysis for subsequent PCT.
 - (ix) Arm's length range.
 - (A) In general.
 - (B) Methods based on two or more input parameters.
 - (C) Variable input parameters.
 - (D) Determination of arm's length PCT Payment.
 - (1) No variable input parameters.
 - (2) One variable input parameter.

- (3) More than one variable input parameter.
- (E) Adjustments.
- (x) Valuation undertaken on a pre-tax basis.
- (3) Comparable uncontrolled transaction method.
- (4) Income method.
- (i) In general.
- (A) Equating cost sharing and licensing alternatives.
- (B) Cost sharing alternative.
- (C) Licensing alternative.
- (D) Only one controlled participant with nonroutine platform contributions.
- (E) Income method payment forms.
- (F) Discount rates appropriate to cost sharing and licensing alternatives.
- (G) The effect of taxation on determining the arm's length amount.
- (ii) Evaluation of PCT Payor's cost sharing alternative.
- (iii) Evaluation of PCT Payor's licensing alternatives.
- (A) Evaluation based on CUT.
- (B) Evaluation based on CPM.
- (iv) Lump sum payment form.
- (v) Best method analysis considerations.
- (vi) Routine platform and operating contributions.
- (vii) Examples.
- (5) Acquisition Price Method.
- (i) In general.
- (ii) Determination of arm's length charge.
- (iii) Adjusted acquisition price.
- (iv) Best method analysis consideration.
- (v) Examples.
- (6) Market capitalization method.
- (i) In general.
- (ii) Determination of arm's length charge.
- (iii) Average market capitalization.
- (iv) Adjusted average market capitalization.
- (v) Best method analysis consideration.
- (vi) Examples.
- (7) Residual profit split method.
- (i) In general.
- (ii) Appropriate share of profits and losses.
- (iii) Profit split.
- (A) In general.
- (B) Determine nonroutine residual divisional profit or loss.
- (C) Allocate nonroutine residual divisional profit or loss.
- (1) In general.
- (2) Relative value determination.
- (3) Determination of PCT Payments.
- (4) Routine platform and operating contributions.
- (iv) Best method analysis considerations.
- (A) In general.
- (B) Comparability.
- (C) Data and assumptions.
- (D) Other factors affecting reliability.
- (v) Examples.
- (8) Unspecified methods.
- (h) Form of payment rules.

- (1) CST Payments.
- (2) PCT Payments.
- (i) In general.
- (ii) No PCT Payor stock.
- (iii) Specified form of payment.
- (A) In general.
- (B) Contingent payments.
- (C) Examples.
- (iv) Conversion from fixed to contingent form of payment.
- (3) Coordination of best method rule and form of payment.
- (i) Allocations by the Commissioner in connection with a CSA.
- (1) In general.
- (2) CST allocations.
- (i) In general.
- (ii) Adjustments to improve the reliability of projections used to estimate RAB shares.
- (A) Unreliable projects.
- (B) Foreign-to-foreign adjustments.
- (C) Correlative adjustments to PCTs.
- (D) Examples.
- (iii) Timing of CST allocations.
- (3) PCT allocations.
- (4) Allocations regarding changes in participation under CSA.
- (5) Allocations when CSTs are consistently and materially disproportionate to RAB shares.
- (6) Periodic adjustments.
- (i) In general.
- (ii) PRRR.
- (iii) AERR.
- (A) In general.
- (B) PVTP.
- (C) PVI.
- (iv) ADR.
- (A) In general.
- (B) Publicly traded companies.
- (C) Publicly traded.
- (D) PCT Payor WACC.
- (E) Generally accepted accounting principles.
- (v) Determination of periodic adjustments.
- (A) In general.
- (B) Adjusted RPSM as of Determination Date.
- (vi) Exceptions to periodic adjustments.
- (A) Controlled participants establish periodic adjustment not warranted.
- (1) Transactions involving the same platform contribution as in the Trigger PCT.
- (2) Results not reasonably anticipated.
- (3) Reduced AERR does not cause Periodic Trigger.
- (4) Increased AERR does not cause Periodic Trigger.
- (B) Circumstances in which Periodic Trigger deemed not to occur.
- (1) 10-year period.
- (2) 5-year period.
- (vii) Examples.
- (j) Definitions and special rules.
- (1) Definitions.
- (i) In general.
- (ii) Examples.

- (2) Special rules.
 - (i) Consolidated group.
 - (ii) Trade or business.
 - (iii) Partnership.
 - (3) Character.
 - (i) CST Payments.
 - (ii) PCT Payments.
 - (iii) Examples.
 - (k) CSA administrative requirements.
 - (l) CSA contractual requirements.
 - (i) In general.
 - (ii) Contractual provisions.
 - (iii) Meaning of contemporaneous.
 - (A) In general.
 - (B) Example.
 - (iv) Interpretation of contractual provisions.
 - (A) In general.
 - (B) Examples.
 - (2) CSA documentation requirements.
 - (i) In general.
 - (ii) Additional CSA documentation requirements.
 - (iii) Coordination rules and production of documents.
 - (A) Coordination with penalty regulations.
 - (B) Production of documentation.
 - (3) CSA accounting requirements.
 - (i) In general.
 - (ii) Reliance on financial accounting.
 - (4) CSA reporting requirements.
 - (i) CSA Statement.
 - (ii) Content of CSA Statement.
 - (iii) Time for filing CSA Statement.
 - (A) 90-day rule.
 - (B) Annual return requirement.
 - (1) In general.
 - (2) Special filing rule for annual return requirement.
 - (iv) Examples.
 - (1) Effective/applicability date.
 - (m) Transition rule.
 - (l) In general.
 - (2) Transitional modification of applicable provisions.
 - (3) Special rule for certain periodic adjustments.
 - (n) Expiration date.
- § 1.482-8T *Examples of the best method rule.*
- (a) [Reserved]. For further guidance, see § 1.482-0, the entry for § 1.482-8(a).
 - (b) [Reserved]. For further guidance, see § 1.482-0, the entry for § 1.482-8(b).
 - (c) Effective date.
 - (1) In general.
 - (2) Election to apply regulation to earlier taxable years.
 - (3) Expiration date.

§ 1.482-9T *Methods to determine taxable income in connection with a controlled services transaction (temporary).*

- (a) through (m)(2) [Reserved] For further guidance, see § 1.482-0, the entries for § 1.482-9(a) through (m)(2).

- (3) Coordination with rules governing cost sharing arrangements.
 - (n) Effective/applicability dates.
 - (o) Expiration date.

[T.D. 9278, 71 FR 44480, Aug. 4, 2006; 71 FR 76903, Dec. 22, 2006; T.D. 9441, 74 FR 349, Jan. 5, 2009; 74 FR 9571, Mar. 5, 2009; 74 FR 11644, Mar. 19, 2009; T.D. 9456, 74 FR 38838, Aug. 4, 2009]

§ 1.482-1 Allocation of income and deductions among taxpayers.

(a) *In general*—(1) *Purpose and scope.* The purpose of section 482 is to ensure that taxpayers clearly reflect income attributable to controlled transactions and to prevent the avoidance of taxes with respect to such transactions. Section 482 places a controlled taxpayer on a tax parity with an uncontrolled taxpayer by determining the true taxable income of the controlled taxpayer. This section sets forth general principles and guidelines to be followed under section 482. Section 1.482-2 provides rules for the determination of the true taxable income of controlled taxpayers in specific situations, including controlled transactions involving loans or advances or the use of tangible property. Sections 1.482-3 through 1.482-6 provide rules for the determination of the true taxable income of controlled taxpayers in cases involving the transfer of property. Section 1.482-7T sets forth the cost sharing provisions applicable to taxable years beginning on or after January 5, 2009. Section 1.482-8 provides examples illustrating the application of the best method rule. Finally, § 1.482-9 provides rules for the determination of the true taxable income of controlled taxpayers in cases involving the performance of services.

(2) *Authority to make allocations.* The district director may make allocations between or among the members of a controlled group if a controlled taxpayer has not reported its true taxable income. In such case, the district director may allocate income, deductions, credits, allowances, basis, or any other item or element affecting taxable income (referred to as allocations). The appropriate allocation may take the form of an increase or decrease in any relevant amount.

(3) *Taxpayer's use of section 482.* If necessary to reflect an arm's length result, a controlled taxpayer may report